IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 143 OF 2007

SHRI. DINKAR VASSANT BUDKULE(DECEASED) THROUGH LR'S AND ANR ... Petitioners

Versus

SHREE DEU RUDRESHWAR TEMPLE ARAVLEM, REPRESENTED BY HIS ATTORNEY AND ANR ... Respondents

Mr. V. R. Tamba, Advocate for the petitioner.

Coram:- R. S. MOHITE, J.

Date:- 19th July, 2007

P.C.

This petition impugns an order dated 13.12.2006 passed by the Civil Judge, Senior Division,Bicholim. The application was purportedly under O.7, R.11(d) of C.P.C. The application was made by the original defendant on 9.10.2006 in Regular Civil Suit No.138/2000/A. On reading the application which runs only paragraphs No. 1 to 3, there is nothing mentioned therein as to how the suit is barred by the Law of Limitation. Only thing stated is that on reading pleading of the plaint itself it becomes very clear that issue of limitation turns out to be one of law. It appears that on one earlier occasion, another application under O.7,R.11 of C.P.C. was made for the dismissal of plaint on the ground of requisite prior sanction of the administrative tribunal not having been obtained under the Devsthan Regulation. It appears that plaint was dismissed. That order was set aside by this Court. The Advocate for the applicants states that another application was made under O.7, R.11 of C.P.C. for dismissal of the plaint on the ground that no cause of action was disclosed. That application was rejected and the matter is pending in this Court. Now third application under O.7,R.11(d) of C.P.C. has been made for dismissal

of suit on the ground of limitation. As mentioned aforesaid, application gives no reason as to why the suit is barred by Law of Limitation. The trial Court observed that even at the stage of argument, the Advocate failed to point out as to how from plaint itself is barred by limitation and did not even point out under which provision of law the present suit is barred by Law of Limitation. Nothing erroneous in the order passed. Hence, petition is rejected.

R. S. MOHITE, J.

sma